





†

Fus Imaginis apud Anglos;

O R

The Law

O F

E N G L A N D

Relating to the

Nobility & Gentry.

Faithfully Collected, and methodically
Digested for Common Benefit;

By JOHN BRYDALL,
of *Lincolns-Inne*, Esquire.

*Nobilitas nova Regia potentia Opus est,
Antiqua vero temporis solius. Bacon.*

L O N D O N,

Printed for John Billinger in *Cliffords-Inne-
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against *Lincolns-Inne-Gate* in *Chancery-
Lane*, 1675.

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HEROIBUS,

Illustrissimis, ac Dominis

*Nobilitate Generis, Amplitudine Dignitatis,
Morumq; probitate, & prudentia
Præstantissimis.*

*Domino Gulielmo Cavendisho, Comiti Devonix;
Majestati Potentissimi Principis, ac Domini, D.
Caroli Secundi Regis in Satrapia Derbieni
Præsidi vigilantissimo.*

A C

*Domino Roberto Brucio, Comiti Alesburix;
Regiæ Majestati Sacratissimi Principis nostri
P P. Aug. Caroli & Carolo in Agro
Bedfordiensi Satrapæ
Circumspectissimo.*

*Opus hoc de Jure Imaginis apud Anglos,
Mole perpusillum Humillime Dedicat. Celi-
britati N. N. suorum (e singularibus,
& laudabilibus orta Causis)
omni Observantiæ Grati-
tudinisque genere,
addictissimus*

Johannes Brydallus.



TO THE
READER.



I may perhaps be admired by some, why I should Expose to Publick View this following Piece relating to Nobility, and the Court of Honor, 1. For that there have been so many (both Lawyers and Heralds) who have already Largely and Judiciously Treated on this Subject. 2. In regard many were heretofore Disgusted at the Court of Chivalry, whereupon this Court was laid aside. 3. That although this Court of Honor has been for some time Revived, yet the High-Shoon, Commonwealths-

To the Reader.

wealths-men continue still as proud
and Clownish as at Geneva, or
Amsterdam. To these Reasons
(as so many Objections) I return
to each a particular Answer.

First, I must confess that there
are many Judicious Authors now
Extant that have Written on the
same Subject, and the truth is, I
have been not a little beholding to
some of them for the Compleating
of this small Work: But 'tis no
otherwise then those Authors them-
selves have been to those that went
before them; only this difference
there is betwixt Mine, and their
Borrowing; they have done it more
covertly, and by the Conduct of a
more Ingenious Managery, then I
who have been more open-hearted,
being not ashamed to Quote and Ac-
knowledg my Benefactors: Besides
for any person to Expect new Mat-
ters from the Press, were to put an
Affront

To the Reader.

Affront on the Wifest of Men, who tell us, that there is nothing New under the Sun : It's sufficient then if what was before be so methodized, as that it proves more ready for the Readers Use and Benefit.

To the 2d. that although the Honorable Court of Chivalry was taken away as a supposed publique Nuzance by reason of some pretended Abuses, yet the abuse of some things must not quite take away the Use of those that are Lawful and Commendable : We have seen a Woful Tragedy of such an Experiment ; Royal Majesty for a long space Ecclipsed, and the Nobility and Gentry lodged in the Chambers of Obscurity. By shutting up the Temple of Honor, and Chivalry, with some others that I could name: And what has followed ? nothing but the Growth of Popery, Fanaticism, Per-

Perjury, Debauchery, and all manner of Disorder.

To the last, If High Shoon Common-wealths-men, and other Mouchers against Honor, Decency, and Order should continue as they were wont before the Re-Erecting of this Honorable Court, I should be sorry; yet (say I) 'tis good to mind them of their Duty, and to let them know their Driver. What? shall our Temple doors be altogether shut up, because men in stead of a Reformation grow Worse and Worse?

Having thus in some measure answered these Objections, I have no more to say whereby to Detain thee (Reader) any longer from the Discourse, but only to assure thee that the principal End and Design of this Publication is for Common Benefit, and therewithall also to Assure the World that I am an Un-

To the Reader.

feigned Reverer of Royal Majesty, (the Sun of Honor,) and a true Lover of Nobility (the Reflex of Sovereignty.)

THE



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THE

{ 1 By Creation, and } *viz,*

that 3 ways,

{ 2 By Descent,

{ 3 By Prescription,

is either

{ By Act of Law,

{ By the Kings Actual Creation,

{ By Writ,
By Letters Patents,
By Parliament,

nights of the Garter,
nights Bannerets,
nights of the Bath,
nights Batchelor of the Spurr.

Nobility in
the Law of
England is
Two-fold:

Superior, or Lords of
Parliament, touching
whom Observable

Inferior, of which
Nobility

1 The several Degrees of the Superior Nobility, and they are, *viz*, ————

2 The wayes, or meanes whereby men come to be reckoned within the state of the Superior Nobility; A man may have a Title in the Peerage of *England*, either

3 The Degrading of a Peer of the Realm by

4 The Trusts and Ensignes of Honor that

5 The Assigning over a Title in the Superior

6 The Priviledges belonging to the Peerage of

Some be Names of Dignity, as these:

Some be Names of Worship, as these:

1 K
the

2 Ba
E
Ge

OPERIS.

Nobi-
The Prince
Dukes
Marqueffes
Earls
Viscounts
Barons,

a come
of the
av a
with

mbr Poverty,
tha the Peerage have.
erbr Nobility.
rage of England.

1 Knights, of which
there are 4 Kindes,
viz.
Knights of the Garter,
Knights Bannerets,
Knights of the Bath,
Knights Batchelor of the Spurr.

2 Baronets.
Esquires,
Gentlemen.

1 By Inheritance, and this 3 ways,
2 By Descent,
3 By Prescription,
2 For Life, and this either
1 By Creation, and that 3 ways,
viz.
By Writ,
By Letters Patents,
By Parliament,
By Act of Law,
By the Kings Actual Creation,

The first
July, and

The way
to be
Society
Title in

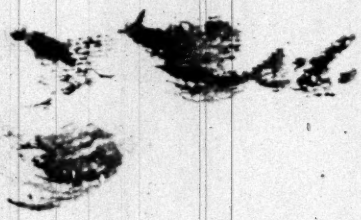
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The first
July, and

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July, and





THE
LAW OF ENGLAND
Relating to the
NOBILITY
AND
GENTRY.



Being held as an infallible Rule, that right Interpretations, Etymologies and Definitions are very necessary in all kind of Learning, either Divine or Humane: I shall before I come to shew what the Law of England is in relation to Nobility, give the courteous Readers both the Origination (or first Original of the Word,) and likewise the Definition of this Nobility.

Nobility, in Latine *Nobilitas*, is (saies one) The Ery-
Quasi Nominis Celebritas; a *Najco*, unde No-
tum, & hinc *Nobilitas*; veluti a *moveo motum*,
unde *Mobilitas*.

The Law of England,

Nobilitas saies another, *Dicitur quasi Noscibilitas*, hoc est, *nominis Celebritas*; and therefore it is somewhere said, *Dicitur Nobilis, quasi virtute præ aliis notabilis*. Thus much of the Etymologic of the word Nobility. As touching the Definition of it, you must know that it hath been several wayes Defined.

The several
Definitions
given of it.

Symonides being Interrogated what Nobility was, and what Men were Noble? answered, *Eos esse, qui ex majoribus longo tempore Locupletibus nati sunt*: *Aristotle* defineth it thus; *Nobilitas est majorum quedam Claritas Honorabilis Progenitorum*. *Keckerman* thus, *Est dignitas in serie certarum Familiarum virtutibus, præsertim Bellicis, & orta & continuata*. *Boetius* in this manner, *Nobilitas est quedam laus proveniens de merito Parentum*. *Jodocus Clickthovius* describes it after this manner, *Nobilitas est generis, vel alterius rei Excellencia, ac Dignitas, i. e.* Nobility is an excellency of gentle Race, or of some other good Quality. *Windelin* the Moralist thus: *Nobilitas est Celebritas nominis e singularibus, & laudalibus orta causis*. *Barzotus* the Civilian defineth it thus: *Est Qualitas illata per Principatum tenentem, qua quis ultra honestos plebeios acceptus ostenditur*. Nobility saies another, *Est Qualitas sive Dignitas, qua quis Legitime e plebia conditione eximitur, & per gradus erigitur*.

Nobility being then a Quality or Dignity, whereby a Man is lawfully Exempt, and by Degrees promoted out of, and above the Estate of the vulgar and common sort of People, is according to the Laws of England two-fold;

fold; *Nobilitas major*, viz. a Lord at least, and *Nobilitas minor*; the greater and lesser Nobility; the former doth appertain to the Peerage, or Lords of Parliament; the latter doth belong to knights, Baronets, Esquires, and Gentlemen.

Now that there are such degrees or kindes in our Law, I shall make good by these two following Examples.

First in the Statute *de Asportatis Religiosorum*, made in the 35th. of Edward 1. At Carlisle are these words at the very Entrance of that Law, *Nuper ad notitiam Domini Regis ex gravi Querela, Magnatum, Procurum, & aliorum Nobilium Regni sui pervenit. &c.*

On these words Sir Edward Cook thus doth comment: It is recited (saith he) by the Act of 25 E. 3. that this Act of the 35. of Edw. 1. was made at the Petition of the Commonalty of the Realm, and there it is said, *ex gravi querela Magnatum &c.* and yet both stand well together, for Knights of the Shire; and other Gentlemen of the House of Commons are included under the words *aliorum Nobilium*; for *Nobilitas est duplex, Superior, & Inferior*; Superior belongeth to the Lords of Parliament, and Inferior to Knights and Gentlemen of Name and Blood, who are in this Act termed *Nobiles*, Co. 2. Inst. fol. 583.

Secondly, King John by his great Charter of Liberties made Anno 17. of his Reign granted, *Quod faciemus summoneri Archiepiscopos, Abbates, Comites, & majores Barones Regni singulatim per Literas nostras*: Out of this exam-

The Law of England,

ple we are (saies Cook) to observe these two things.

1. That these Barons called here *Majores*, were Lords of Parliament, and called hereunto by the Kings Writ.

2. That they were called *Majores* comparatively, and it was in respect of others which were called *Barones minores*, or *Nobiles minores*, and were Free-holders, and hold by Knight-service, and Escuage, i. e. *Servitium Scuti*, of three sorts, viz. *Milites*, *Armigeri*, & *Generosi*, Knights, Esquires, and Gentlemen, Co. 4. Inst. f. 45. & 46.

Having sufficiently proved that there are in our Law Two Kindes of Nobility, viz. Greater or Superior, and Lesser or Inferior. I now proceed to Treat of those two Kindes severally and apart.

I. Of the Greater or Superior Nobility, called the Peerage or Baronage of the Realm.

Touching this Greater or Superior Nobility, there are worthy of the Readers Observation these six Particularities.

1. The severall degrees of the Superior Nobility.
2. The wayes or means whereby persons come to be reckoned within the state of the Peerage.

3. The

3. The Degrading of a Peer of the Realm for Poverty.
4. The Trusts and Ensignes of Honor that the Peerage have.
5. The Assigning over of a Title in the Superior Nobility.
6. The Priviledges belonging to the Peerage.

First, Of the several Degrees of the Superior Nobility.

The Law of *England* hath divided the Peers of the Realm into the Prince; Dukes, Marquesses, Earls, Viscounts, and Barons: Of these in their Order.

All Potentates of the World have highly respected and advanced in the eye of their Prince. Subjects their Heir Apparent, and conferred on him very Eminent Titles of Honor; by the *Romans* he was stiled *Cæsar*, or *Princeps Inventutis*, as the principal of all their Hopes in their Posterity: By the *French* he is Honored by the Name of the *Dolphin* of that part of the Country, being in his Patrimony: And in like manner in this our Country the Prince of *Wales*, Duke of *Cornwall*, and Earl of *Chester*: *Princeps dicitur, quia quasi Principalis in Strenuitate post Regem*: He is next to his Father the Chief in the Realm, and by course of the Civil Law is to sit at his right hand in all Solemn Assemblies of State and Honor; so that

The Law of England,

not without reason did *Edward 3.* King of *England* place *Richard* his Grandchild, and next Heir Apparent in his Solemn Feast at *Christmas* at his Table next to himself above all his Uncles, being the Sons of that King, and men manifoldly Renown'd for their Prowess, and Vertue: And yet hath not the Prince any Kingly Prerogatives allowed unto him by the Laws of his Realm in the life of his Progenitors, other then such as are due unto other Noblemen, that he might acknowledg himself to be but a Subject, and whereof he is put in remembrance, even by the Poetic that he useth in the old *English* or *Saxon* Tongues, in this forme conceived, *Ich Dien, I am a Ser-
vant.*

Wid. Co.
4. Inst. f.
43.

He is Born Duke of *Cornewall*, and therefore needeth no Ducal Creation: When he is made Prince of *Wales* he is presented before the King in Princely Roabes, who putteth a Sword about his Neck Bendwise, a Cap, and a Coronet over his Head, and a Ring on his middle finger, a Verge of Gold in his Hand, and his Letters after they be read. Now the Cincture of the Sword is first, because that the Prince as soon as he is Born is Duke of *Cornewall*, and is taking of that he is Duke without Creation; and therefore he has the Sword in the first place: the Imposition of the Capp of Estate, and the Coronet, and the Ring upon the third finger, betokeneth that he is Prince, and Married to do Justice and Equity to all parties. 1. The Rod of Gold betokeneth that

he shall be Victorious in circumventing and subduing his Enemies Forraign and Domestique.

The limitation of his Estate in the principality of *Wales* is thus :

Habendum, & tenendum de nobis sibi, & Heredibus suis Regibus Angliæ &c. To have and to hold unto the said Prince, and his Heirs, Kings of England. In this limitation (saies Coke) there is a great mystery, for less then an Estate of Inheritance in so great a principality as *Wales*, the Kings meaning was (this principality being so dear unto him) he should not have ; therefore a qualified Fee therein he had in this form, *Sibi & Heredibus suis Regibus Angliæ*, that by his Decease or attaining to the Crown this Dignity might be extinguished in the Crown , to the end that the King for the time being should ever have the Honor and power to create his Heir Apparent Prince of *Wales*, as he himself had been by his Progenitor.

Co: 4:
Inst: f: 143,
& 244:

In the same manner is the dignity of the Noble and Primary County Palatine of *Chester* at the same time granted to the Prince, *Sibi & Heredibus suis Regibus Angliæ*.

Co: 4:
Inst: 244

It was resolved, that the Charter of creation of the Prince Duke of *Cornwall* 11 E: 3. is an Act of Parliaments for such a Limitation to the first Begotten Son is void without a Statute, for if Grandfather King, the Father Duke, and Son be, if the Grandfather dyes, the Father is King, and the Son Duke by the said Statute, against the Rules of Law.

Co. lib. 7.
the Princes
case.

Co. ib.

Note no Son of the King but his first Begotten shall be Duke of *Cornwall*, although he be Heir Apparent of the Crown.

2 Duke

A Duke at first was ever a Leader of an Army Imperial or Regal; he was called *Dux a ducendo, quia ob suam fortitudinem, & magnanimitatem per se exercitum ducere dignus erat*, he was antiently chosen in the Field, either by casting of lots, or common voice.

In some Nations at this day the Sovereigns of their Country are called by this name, as Duke of *Savoy*, Duke of *Saxony*, Duke of *Muscovy*, the Duke of *Florence*, &c. but here in *England* Duke is the next in secular dignity and Honor to the Prince of *Wales*.

Co: lib. 9

Lowes case

Co: 2:

Inst: f: 5:

Co: Lit:

60: b:

Davy's

Rep: f: 60:

4.

After the *Conqueror* came in, there were none of this Title until E: 3. his dayes, for the first *Duke* that was created since the Conquest was *Edward* the Black Prince in 11 E: 3. since that time there have been many created by the Kings of *England*, and in such sort that their Titles descend by Inheritance to their posterity.

A *Duke* is Ornified with a Surcoat Mantle and Hood at his creation; he wears also a doubled Ermin, but not indented; he has also a Coronet, and a verge of Gold.

3 Mar-
queses:

A *Marquess* is called by the Saxons, a *Marken Reve*, that is a Ruler of the Marches; in Latine *Marchio, a Marca* saies one, *quod limitem in agris, territoriiq; significat, sive districtum Regionis, hinc Marchiones dicti sunt, quos alii nomine prefectos limitandos presidesq; provincie solent appellare*; for in those Territories that have

have naturally no bounds of great strength or defence, there is need of wise and stout men toward their Borders for the keeping out of Neighbour-enemies, but here in *England*, though we have a Lord-warden of the Marches Northward, and a Warden of the Cinque-ports towards the South-East, and were wont to have Lord Marchers between us and *Wales*; which served this turn; yet those which we call Marquesses and Lords of Dignity and great Eminency, without any such charge, and are in Honor next unto Dukes.

Robert de Vere Earl of *Oxford* was in the Eighth year of King R. 2. created Marquess of *Dublin*; and he was the first Marquess that any of our Kings created.

Co. 2. Inst.

f. 5.

Co. Lit.

69. b. lib.

9. Lowes

case.

4 Earls.

The word *Earl* is derived from the *Tentative* or German Tongue, *Ehre*, i. e. Honor; and *Edel*, i. e. *Nobilis*, q: *Vir honore Nobilis*, & *Nobilitate Honoratus*. An Earl the Saxons called an Elderman, i. e. *Judex*; for gravity in Council He was called, *Comes illustris*, a *comitando Principem*; or as some say, a *Comitiva quia dignus est ducere Comitivam in bello*, & *ipsam sua animi fortitudine & regere, & defendere*.

This was the most eminent and high Dignity from the Conquest, until 11 E. 3. when the Black Prince was created Duke of *Cornwall*, and those which of antient time were created Countees, or Earls, were of the Blood Royal, and at this day the King in all his Appellations stileth them by the Name of *Our most dear Cozen*,

Co: lib: 9.

Le Countee

de Salops

cast 49. a.

Here-

Co: Lit:
168. lib: 9.
Reynells
case le
Countee de
Salop's
case.

Heretofore the Countee or Earl was *pre-fectus*, or *prepositus Comitatus*, and had the charge and custody of the County; but now the Sheriff hath the Authority for administration and execution of Justice, which the Countee or Earl had, and therefore is in our Law called *Vifcount*.

The occasion why these Earls in latter time have had no sway over the County, whereof they bear the name is signified in Sir *Thomas Smith*, who saith, that the Sheriff is called *Vice-comes* (as *Vicarius Comitis*) following all matters of Justice, as the Earl should do; and that because the Earl is most commonly attendant upon the King in his War, or otherwise: so that it seemeth that Earls by reason of their high employment being not able to follow the business of the County, were delivered of all that burthen, and only enjoyed the Honor as now they do, and the Sheriff though he be still called *Vicecomes*, yet all he doth is immediatly under the King, as appears by his Patent.

Hugh Lupus Son of the Viscount of *Averanches* in *Normandy* by his Wife *William* the Conquerors Sister, was the first Hereditary Earl of *England*, created by his Uncle the conqueror, Earl of *Chester*, and in the stile of a

Co: 4. Just: Conqueror, *Totumq; hunc Comitatum tenendum sibi & Heredibus ita libere ad gladium, sicut*
211.
Davy's *ipse Rex tenebat Angliam ad Coronam, de-*
Reports, *dit.*
le case del

Countie By this general Grant *Hugh* Earl of *Chester*
Palatine: had *Jura Regalia* within the County, and con-
62. a. b. sequently

relating to the Nobility and Gentry.

11

sequently had *Comitatum Palatinum* without any express words thereof, and by force thereof he created 8 *Cheshire* Barons, which was the first visible mark of a County Palatine. The Office of these Barons were to sit in Council and Parliament with the Earl in his Palace, and to Honor his Court with their presence: Those Barons had within their several Courts *Consens de omnibus placitis & querelis in curia Comitatus nostri, exceptis placitis ad gladium ejus pertinentibus*, which you may see at large, Rot. Inspex. pat. An 18. H. 6. part. 2. m. 34 By what has been said, it may be collected, that Earls are of two sorts, viz. *Comites simplices*, & *Comites Palatini*, or Earls of the first and second Order: for although the *Comites simplices* had Jurisdiction as is said before, yet the *Comites Palatini* were of an higher rank, and had divers Royal Franchises, and privileges which were not granted to single Earls.

Note that of single Earls, and not Palatine in England there are principally two Kinds, but every one of them again subdivided into several Branches, for either they take their Name of a place, or hold their Title without a place.

1. Those that take their Name of a place, are of two kinds, for either the same place is a County, which is most usual, or else from some other place, and no County, as a Town, Castle, or Honor; of which latter sort some are more Antient, having their Original even from the Conquest, or shortly after, as the
Earl-

Earldom of *Richmond* in *Yorshire*, *Clarence* in *Suffolk*, *Arundel* in *Essex*, all which had their Original in the time of the Conqueror by Donation of those Castles.

2. Those which have their Titles without a place are likewise of two Kinds, either in respect of Office, as is the Earl Marthal of *England*; the second Kind are Earls by Birth, and so are all the Sons of the Kings of *England*, if they have no other Dignity bestowed upon them.

To the degree of an Earl belongeth a Surcoat, a Mantle, and a Hood, with a Coronet of Gold with points only, and no flowers.

5 *Vis-*
connes

Co. lib: 9.
Lowes
case.

Co: 2. *Inst.*
f: 5. Co:
Lit. 69 6.

Post Comites (saith our *Cambden*) *Vice-comi-*
tes ordine sequuntur, Viscounts nos vocamus:
Hec vetus Officii, sed non dignitatis appellatio:
Viscounts is a degree of Nobility next to an Earl, which is an old name of Office, but a new name of dignity, never heard of amongst us until *H: 6.* his daies; for the first Viscount that sate in *Parliament* by that Name was *John Beaumont*, who in *18 H: 6.* was created *Viscount*; but this degree of Honor is more antient far in other Countries.

Seeing there were not any *Viscount* in *R: 2.* time, the *Quere* may be, whether the stat. of *2 R: 2. c: 5. de scandalis magnatum* doth extend unto them?

Cro. 3.
pare inter
Viscount
Say & Ste-
vens.

It is answered, that this Statute doth extend to *Viscounts*; for the Act is, *de magnatibus Regni Anglie*, and every Viscount is a Baron, which is an addition of Honor.

This

This degree hath a Surcoat, a Mantle and Hood, with a Circulet without either flowers or points.

The dignity of a Baron was called in the *British Tongue Dynast*, in the *Saxon Language Thayne*, in the *Latine Dialect Baro*, which signifies *Vir gravis*; for *Albertus de Rosa* in his *Dictionary* expressing the signification of the word *Baro*, saith, *Barones dicuntur Graves persone, a Græco vocabulo Baria, quod idem est, quod Authoritas, gravis. Calepine* in his *Dictionary* saith, *Baro est vir fortis, a quo fit diminutivum Barunculus*: Men in this dignity were ever of great reputation, for *Hortensius* speaking of Barons saith, *Non solum militare, sed prudenter, atque graviter ipsis ducibus Consulere officium est Baronis*.

In antient Records the *Baronage* (under one word) included all the Nobility of *England*, because regularly all Noblemen were Barons, though they had a higher dignity; and therefore of the *Charter of King E: 1.* the conclusion is, *Testibus Archiepiscopis, Episcopis, Baronibus, &c.* so placed in respect that Barons included the whole Nobility, when there were besides Earls and Barons, Dukes, and Marquesses, were all comprehended under the name *de le Council de Baronage*. Thus much of the several degrees of the Superior Nobility.

Secondly, *The wayes or meanes whereby persons come to be reckoned within the state of the peerage of England.*

A person may have an Inheritance in Title of Nobility three manner of wayes, viz: 1 By creation; 2 by descent; 3 prescription.

1 By Creation.

By creation a man may have an Inheritance in title of Nobility three manner of wayes; by Writ; by Letters patents; by Parliament.

I. *By Writ.*

Co. Lit. 16.
b.

A Peer or Nobleman by Writ is he to whom a Writ of Summons is directed by the King to come to the *Parliament* to treat of the affairs of the Realm: this creation by Writ is an antienter way then by the Letters Patents; King R: 2. created *John Beauchamp* of Holt Baron of *Kedermister* by his Letters Patents, before there was never any Baron created by Letters Patents, but by Writ; and it is to be observed, that if a man be generally called by Writ to the *Parliament*, he hath a Fee simple of the Barony, without any words of Inheritance; but if he be created by Letters Patents, the state of Inheritance must be limited by apt words, or else the Grant is void.

Quest: But it may be Queried touching a Baron called by Writ, if he be summoned to *Parliament*, and dyes before he sits in *Parliament*;

relating to the Nobility and Gentry.

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ment, whether he is a Baron, or Peer of the Realm or no?

Sol: Sir *Edward Coke* answereth, that if a man be called by Writ to *Parliament*, and the Writ is delivered unto him, and he dyeth before he come, and sits in *Parliament*, that he is no *Baron*, for the direction and delivery of the Writ to him maketh him not Noble; the Writ having no Operation or Effect until he sit in *Parliament*, and thereby his Blood is Ennobled to him and his Heirs lineal, and thereupon a Baron is called a Peer of *Parliament*:

And hence it is if Issue be joyned in any Acti-
on, whether he be a Baron, &c. or no, it shall
not be tryed by Jury, but by the Record of
Parliament, which could not appear, unless he
were of the *Parliament*; therefore a Duke, Earl,
&c. of another Kingdom, as of *Scotland*, or
Ireland are not to be Sued by those Names
here in *England*, for that they are not Peers of
Parliament.

If the King give Lands to one and his
Heirs, *Tenendum de Rege per servicium Baronie*,
he is no Lord of *Parliament* until he be called
by Writ to the *Parliament*:

I shall conclude this learning relating to the
Title of Nobility by Writ with these three
Observations.

1 That albeit the creation by Writ be the
antienter, yet the creation by Letters Patents
is the surest, for he may be sufficiently created
by Letters Patents, and made Noble, albeit he
never sit in *Parliament*.

2 That

Co. Lit.

16. b.

Co. lib. 9.

31. 49.

Co. lib. 7.

15.

Co. lib. 6.

f. 53.

Countess of

Rutlands

case.

Co. Lit.

16. b.

Co. 3. Inst.

30. lib. 9.

Sanchas

case,

Co. 2. Inst.

f. 5.

Co. Lit. f.

16. b.

Co, Lit, f.
9. b.
27 H. 6.
Lord Vef-
cies case.

2 That although when a man is called by Writ to the Upper House of *Parliament*, he is a Baron, and hath Inheritance therein without the word (Heirs;) yet may the King limit the general state of Inheritance created by the Law and custom of the Realm to the Heirs Males, or general of his Body by the Writ, as he did to *Bromfleet*, who in 27 H: 6: was called to *Parliament* by the name of the Lord *Vescey*, &c: with the limitation in the Writ to him and the Heirs Males of his Body:

3 That of antient times Earls, &c: were created by girding them with a Sword, and nominating him Earl, &c: of such a County or place, and this with a calling of him to *Parliament* by Writ by that name was a sufficient creation of Inheritance.

2. By Letters Patents.

The usual words in the Letters Patents are these:

Considerantes itaque generis Claritatem, vel gratà obsequia, quæ A: B. nobis prestiterit &c. Sciatis quod nos &c: presat: A: B: ad statum, gradum, Dignitatem, & honorem Baronis, Erexi-mus, prefecerimus, & Creavimus, eidemq. A: B: nomen Baronis de T. imposuimus &c. ac per Lite-ras Patentes damus &c: Habendum presat: A. B. & Hered. &c. From the usual words in the Patent, I come to the manner of Solemnity used in the creation of this *Baron* by Patent; and I am informed by an Author it is thus;

The

The Baron newly to be created is presented unto the Kings Majesty sitting in his chair of State; after this Order he is apparelled: in his Surcoat with the Hood, a Baron bearing a Mantle before him, and two Barons in their Parliament Roabes on each hand one leading him; the principal King at Arms preceding on before him; when they come in presence of his Majesty, they make their solemn obeysance three times; and the Baron to be created kneeleth down before the Chair of State, the said King at Arms delivereth the Patent of Creation to the Lord Chamberlain, who humbly presents the same to the principal Secretary to be read, who reading the same with a loud voice, at the word (*Creavimus,*) the Baron which carrieth the Mantle presenteth the same to his Majesty, who putteth it on the new Baron, whereby he is created, and then is the Patent read out to the end, and delivered unto the King, who delivereth it to the Baron so created, who after most humble thanks given to his Majesty, he riseth up, and they depart in the like solemn order as they came, with Trumpets sounding before them.

3. By Parliament.

King Edward 3. at a Parliament holden on the 17. of his Reign, by Charter established by Authority of Parliament created Edward called (the Black Prince) Prince of Wales.

Co. 4. Inst.
204.

So at a *Parliament* holden 36 E. 3. the King in full *Parliament* did gird his Son *John* with a Sword, and set on his head a cap of Furre, and upon the same a circle of Gold and Pearls, and named him Duke of *Lancaster*, and thereof gave to him and to his Heirs Males of his Body, and delivered him a Charter. Thus much of creation by Writ, by Patent, and by *Parliament*.

2 By De-
scend.

A man may have a Title in the Superior Nobility by Descent, and this is called in Latine, *Nobilitas Hereditaria*, hereditary Nobility derived from a mans Ancestors, eminent for vertue, learning, and prowess: So that of this Hereditary Nobility the meritorious or impulsive cause is *Virtus prime Originis*, a qua *Nobilitas cepit*. The instrumental cause in respect of *Posterity* is Generation, by which this Nobility is propagated and conveyed to the Heirs Lineal and collateral; the final cause is the compensation and Reward of Vertue, not only in *Subiecto ejus proprio*, but also in posterity, *Hec debemus virtutibus* (says *Seneca*) *non presentes solum illas, sed etiam ablataq; consecutu colamus*; but the principal cause of this Nobility Hereditary, or by Descent is the King, from whom all the degrees of Nobility, *tantum lumen de lumine* are derived without any diminution; the nature and causes of this Nobility by Descent being shewn, I shall propose these two following Quæres for the better comprehension of Hereditary Nobility.

Lib. 4. de
Benef. c. 30

Co. 4. Inst.
2 + 3.

relating to the Nobility and Gentry.

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An Earl or Baron dying, leaving Daughters and no Son, whether the Earldom or Barony should be divided amongst the Daughters or not?

Cambden King at Arms told Sir *Edward Coke*, that some held, that if a Baron dyes having Issue divers Daughters, the King may confer on him, who Marry's any of them; as in the case of my Lord *Cromwel* who had Issue divers Daughters, and the King did confer the Dignity upon *Bourchier*, who Married the youngest Daughter, and he was Lord *Cromwell*.

Solut.

Co. lib. 12.
f. 112.

If the Earldom of *Chester* descend to Co. 22 H. 3.
parceners, it shall be divided between them as Tit. parti-
well as other Lands, and the Eldest shall not tion 18,
have this Seigniorie and Earldom entire to her Co. lib. 12.
self: By this (says *Coke*) it appeareth, that the f. 112.
Earldom, (that is the possessions of the *Earl-* Co. Lit. f.
dom) shall be divided, and that where there 165. a,
be more Daughters than one, the Eldest shall
not have the dignity and power of the Earl,
that is to be a Countess. What then shall
become of that dignity? the answer is, that
in that case the King who is the Sovereign of
Honor and Dignity, may for the incertainty
confer the dignity upon which of the Daugh-
ters he please; and this has been the usage
since the Conquest as it is said.

But if an Earl that hath his Dignity to him
and his Heirs, dyeth having Issue one Daugh-
ter, the dignity shall descend to the Daugh-
ter, for there is no incertainty, but only one

Co. Lit,
165, 4,

Daughter, the dignity shall descend unto her, and her posterity, as well as any other Inheritance, and this appeareth by many presidents, and by a late Judgment given in *Sampson Leonards* case, who Married with *Margaret* the only Sister and Heir of *Gregory Five Dacres* of the South, and in the case of *William Lord Ross*.

11 Eliz,
Dy. r 185,
the Duke of
Buckingham
case,

But note that there is a difference between a dignity, or a name of *Nobility*, and an Office of Honor; for if a man hold a Mannor of the King to be High Constable of *England*, and dye having Issue two Daughters, the Eldest Daughter taketh Husband, he shall execute the Office solely, and before Marriage it shall be exercised by some sufficient Deputy; and all this was resolved by all the Judges of *England* in the case of the Duke of *Buckingham*.

Quere 2,

Whether there can be *Possessio Fratris* of a Title of Honor?

Solut,

Co Lit. fol,
15, b,
lib. 2, 42, 4,
Ratcliffs
case,

Of Dignities, whereof no other possession can be had but such as descend, (as to be a Duke, Marquess, Earl, Viscount, or Baron,) to a man and to his Heirs; there can be no possession of the Brother to make the Sister to Inherit, but the younger Brother being Heir to the Father, shall Inherit the dignity Inherent to the Blood, as Heir to him that was first created *Noble*.

† So a Question was moved in *Parliament*, touching the Barony of *Reatbea*, where the case was, that one being created *Baron* to him, and to his Heirs, hath Issue a Son and a Daughter

ter by one venter, and a second Son by another venter, and the Eldest Son hath the Barony, and sits in *Parliament*, and afterwards dyes without Issue, whether the second Son shall have that dignity as Heir to his Father, or the Sister shall have it as *possessio Fratris* in the Lands, &c. And the Opinion of the Judges was desired therein; and they resolved, that there was not any *possessio Fratris* of a Dignity, but it shall descend to the Son, for the younger Son is *Hæres natus*, and the Sister is only *Hæres facta* by the possession of her Brother, of such things as are in *Demeasne*, and not of Dignities, and such like, whereof there cannot be an Acquisition of the possession.

Co, 3 part
the Lord
Grayes
case,

A man may have an Inheritance in Title of Nobility by prescription as well as by creation, or descent.

3 By pre-
scription,

Barons by prescription are all one with Barons by Tenure, or those who antiently, and time out of mind have been called to the *Parliament* by Writ, and none otherwise; They are those that do hold any Honor &c. as the Head of their Barony, *per Baroniam*, which is called *grand Serjeanty*; and to prove that there were Barons temporal by prescription or tenure, I shall produce these two Authorities.

1. *Glanvil lib. 9. c. 6. Baroniam Rex retinet donec hæres &c.*

2. *Magna Charta c. 2. signis &c. de comitatu integro per C. Heres Baron. per C. marcas, Heres Milit. pro feodo militis C. solidis.*

The Law of England,

Thus much of Inheritance in Title of Nobility and Dignity, which a man may enjoy three manner of wayes, that is to say, by creation, by descent, and prescription.

But note that a man may have a Title of Nobility for life only, and this either by Act of Law, or by the Act of the party, that is to say, by the Kings actual creation.

1 By Act
of Law,

If a Duke take a Wife, by the Inter-marriage she is a Dutcheß in Law; and so of a Marquess, an Earl, a Viscount, and a Baron, *Co. Lit. f. 16. b.* But it may be Queried, Whether a Dutcheß, Marchioness, &c. Marrying a second Husband that is under the degree of Nobility shall loose her dignity?

Co, Lit. 16
b lib. 4.
118,
Actions
617,

It is answered with this distinction, viz. Betwixt a Woman Noble by Marriage, and a Woman that is Noble by Descent; for if a Woman that is Noble by Descent Marry one that is under the degree of Nobility, yet she remaineth Noble still; but if she gain it by Marriage, she looseth it if she Marry under the degree of Nobility.

Bendlows
Reports f.
37, un.
146,
18 H. 6, 4,

Adrian Stokes Esquire Married with the Dutcheß of *Suffolk*, and brought a *Quare Impedit* against the Bishop of *Excester*, and *N. Mason*, by the name of *Adrian Stokes* Esq; and Dame *Frances* Dutcheß of *Suffolk* his Wife, &c. the Defendants pleaded that the said Dutcheß by her Inter-marriage with the said *Stokes* had by the Law lost her name of dignity of Dutcheß, and that she ought to be named *Francisca* Wife of the said *Adrian Stokes*,
and

and Lady Frances Dutches of Suffolk, and for this matter the plaintiffs discontinued their Suit, and durst not any further proceed.

The Lady Anne Powes and her Husband Randolph Hayward Esquire brought a Writ of partition against the Duke of Suffolk and his Wife for part of the Inheritance that was Charles Brandons, because the Writ was per Ranulphum & Dominam Annam, &c. they were inforced to bring a new Writ *ad Respondendum* to Randolph and his Wife, late the Wife of Lord Powes, for per Mountsgue chief Justice, and Hales by the Law of Eng. whatsoever be the courtesie among the dames of Honor, a Womans name of dignity changeth with the degree of her Husband, and of such Women as have not their Honor by Birth, but acquire that by Marriage the rule of Law taketh order, *Si mulier nobilis nupserit ignobili definit esse nobilis* when she taketh a second Husband.

The wo-
mans Law-
yer lib. 6.
3 Sect. 5.

With our Law doth the civil Law concur in this point of Marriage.

Tam diu Clarissima femina erit, quam diu senatori nupta est: vel Clarissimo, aut separata alii inferioris dignitatis non nupsit.

D. 1. 9. 8.

Mulieres honore maritorum erigimus, genere nobilitamus, &c. Si autem minoris Ordinis, vi-ram postea fortiter fuerint, priore dignitate, privatae: posterioris mariti sequuntur: Conditionem.

Cod. 12. 1.
13. de dig-
nitatibus,

But our Rule aforesaid fails in point of Marriages Royal; and therefore if a Queen Dowager Marry any of the Nobility, or under Co. 1

The Law of England,

that degree, she looseth not her dignity, as *Katharine Queen Dowager of England* Married *Owen ap Moredith ap Theodore Esquire*, and she by the name of *Katharine Queen Dowager of England* maintained an Action of detinue against the Bishop of *Carlisle*.

2 By the
Kings crea-
tion,

Co Lit. 16,

b, lib. 9,

Reynells
case,

31 H. 6, 29,

per Danby,

As an Estate for life may be gained by Marriage, so may the King create either man or woman noble for life, but not for years, because then it might go to the Executors or Administrators.

Note one may be Earl during the life of another if the creation be so.

Hitherto of the way or means whereby persons arrive to the state of the Superior Nobility.

Thirdly, *The Degrading of a Peer of the Realm by reason of poverty.*

That poverty is a good cause for the degrading of a Peer of the Realm is very apparent by this following example.

Co. 4, Inst
f. 355 lib.
1, Earl of
Shrewsbu-
ries case,

The cause of the degradation of *George Nevill Duke of Bedford* (says *Coke*) is worthy of observation, which was done by vertue of an Act of Parliament in 17 E. 4. which Act reciting the erection, and making of the said Duke, doth express the cause of his degradation in these words:

And for as much as it is openly known, that the said George hath not, nor by Inheritance may

may have any livelihood to support the said name, estate, and dignity, or any name of estate, as oftentimes it is seen, that when any Lord is called to high Estate, and have not livelihood convenient to support the same dignity, it induceth great poverty, and indigence, and causeth oftentimes Extortion, Embracery, and maintenance to be had, to the great trouble of such Countries where such Estate shall happen to be Inhabited, wherefore the King by advice of his Lords Spiritual and Temporal, and the Commons in this present Parliament Assembled, and by the Authority of the same ordaineth, establisheth, and enacteth, that from henceforth the same erection, and making of the same Duke, and all the names of dignity to the said George, or to John Nevill his Father be from henceforth void, and of none effect, &c.

In which Act three things are worthy of your Observation.

1. That although the said Duke had not any possessions to support his dignity, yet his dignity could not be taken away from him without an Act of Parliament.

2. The inconveniences appear where a great estate or dignity is not accompanied with a livelihood.

3. This is a good cause to take away the dignity by Parliament.

Fourth-

Fourthly, *The Trusts and usages of Honor that the Peerage have.*

Co, lib. 7, Earls and Barons have offices, and duties
Nevil scase annexed to their dignities of great trust and
Co 2. Inst, confidence for two purposes.

f. 5, & 6, 1. *Ad Consulendum in tempore pacis*; and
lib. 12, secondly, *Ad defendendum Regem tempore belli*:
Earls And prudent Antiquity hath given unto
Shrewsbu- them two Ensigns to resemble, and put them
ries case, in mind of their duties; for first, they have
an honorable and long Robe of Scarlet Re-
sembling Counsel, in respect whereof they are
accounted in Law, *de magno Concilio Regni*:
Secondly, they are girt with a Sword, that
they should ever be ready to defend their King
and Country. The Civil Law says thus: *Ad No-*
bilium Officium spectat, solitudo Lateris Im-
perialis protegendi, Obsequiis Principis occupat,
aule penetralibus inhaerere, suis consiliis pro
imperio die, nocteq; laborare.

Fifthly, *The Assignment of a Title of Nobility over to another.*

The Barony of Edmond de Eincoart of Lang-
ley in Lincolnshire originally created by Writ,
Co, 4, Inst; had long continued in his Surname, and ha-
ving no Issue Male, desirous that his Surname,
126, Arms, and Barony, all which he held in Fee-
Camb, Brit, f. 536 simple might continue, by humble Suit
in English, im-

importuned King E. 1. for that he conceived *Quod cognomen suum, & arma post mortem suam deleberentur, & Corditer affectabat ut post mortem ejus in memoria haberentur, ut de maneris & armis suis proffaret quemcunque voluerit*; and in the end he obtained his Suit by the Kings Letters Patents under the Great Seal, and afterwards about 19 E. 2. he assigned according to the Kings Grant his Sir-name, Armes, and possessions.

Hil. 31. Eliz. The Baron Burghley Lord Co, 4. Inst. Treasurer, Deputy to the Earl of Shrewsbury, f. 126, & then Earl-Marshal of England, in hearing of the Cause, by the Queens commandment between Edward Nevill, and Lady Mary Vane, Daughter and Heir of Henry Lord of Aburgavenny, for the Right of the Barrony of Aburgavenny, did vouch a Record in the Reign of Edward 4. that the Lord Hoe, who bare for his Ensignes of Honor Quarterly Silver and Sable, having no Issue Male, by his Deed, and under his Seal granted his Name, Arms, and dignity over, but having not the Kings Licence and Warrant, the same was in Parliament adjudged to be void.

Out of these fore-mentioned presidents, the Reader may collect these two things.

1. That a Title of Nobility may be assigned or granted over to another.

2. That it cannot be done without the Kings Licence,

Sixthly, and Lastly, *The priviledges appertaining to the Peerage of the Realm.*

The *Baronage* of *England* are possessed of sundry and special priviledges, which the laws of *England* do allow unto them in regard of that favour, that all good policy in every well Governed Common-wealth doth bestow and yeild to the noble and honorable; and they are such as these following.

Exemption from Arrests.

Priviledg
1,

The person of a *Baron*, who is a peer of the *Parliament* shall not be Arrested in debt, or Trespass by his body; this exemption is founded upon a double Reason in our Law, *The one* is, because it is presumed that the most Honorable are the likeliest to be right honest, and will pay even before demand: *The other* is, because the Fortunes of a *Baron* are sufficient to give satisfaction without Arresting the person.

Note, although in Trespass, *Vi & Armis* at the Common Law against a *Baron* a *Capias* lyeth not, nor after by the equity of the common law upon the statute of 25 E. 3. because the estate of a *Baron* is intended sufficient: yet 11 H. 4. 15. in *homine Replegiando*, against *Dame Spencer* a peer of the Realm, viz. a *Baroness* born; it was granted because it was an high

high injury to the person whom she esloy-
ned.

Process in Chancery.

Barons of the Realm being defendants, in- *Priviledg*
stead of a *Subpena*, have a letter directed un-²,
to them from the Lord Chancellor, or Lord
Keeper of their appearance at a day therein
preixed.

But note two things as touching this pri-
viledg.

1. That if a *Baron* neglect to appear upon
the day appointed by the letter, then the Or-
dinary process of *Subpena* is upon motion A-
warded against them.

2. If a *Baron* appear upon the letter to him
directed, and after Appearance he depart
without an Answer, he is passed the *Subpena*,
and no process then but an Attachment is to
go forth against him.

Juries.

A Baron by reason of his Honor and digni- *Priviledg*
ty is exempted to be sworn upon Enquests, or
juries. 3,

Note, if neither party will challenge him, he
may challenge himself, for by *Magna Charta* it
is provided, *Quod nec super eum ibimus, nec su-*
per eum mittemus, nisi per legale Judicium pa-
rium suorum, aut per Legem terra. Co. Lit.
156, b. lib,
6, 53,
Counsell de
Kents case,
Co. lib, 9, f,
49,

A Knight returned.

Priviledg If a *Peer* of the Realm, or *Lord* of *Parliament* be demandant, or plaintiff, tenant, or defendant, there must a *Knight* be Returned of his Jury, or else the Array may be Quashed.

4^a Co. lib. 9. Touching this priviledg two things are to be observed:

49, Co: Lit: 156, a, lib. 6, 54, a, 27 H, 8, 22, 4, Eliz. Dyer 208, 1. That if a *Knight* be Returned, and he appear not, yet the Jury shall be taken of the Residue.

2. If others be joyned with the *Lord* of *Parliament*, yet if there be no *Knight* Returned, the Array shall be Quashed against all.

Leetes.

Priviledg Peeres of the Realm are not Obliged to attend Leetes.

5, Marl, c, 10 Brit, c, 29, Mirror, c,

Tryal per Pares.

1, Se, 16, Priviledg 8, It is a priviledg that the peeres and nobility of *Parliament* doe enjoy, namely to be tryed in cases of treason, and felony by their peers.

Co: 2: Inst: f. 49, 3 Inst, 30,

As touching this priviledg, these things are worthy of the Readers notice.

1. That every *Lord* of *Parliament*, and that hath voice in *Parliament*, and called thereunto by

by the Kings Writ, shall not be tryed by his peers, but only such as sit there *Ratione nobilitatis* as Dukes, Marqueesses, Earls, Viscounts, or Barons, and not such as are Lords of *Parliament*, *Ratione Baroniarum*, *quos tenent in Jure Ecclesiæ*, by reason of their Baronies, which they hold in the right of the Church, as Arch Bishops, and Bishops, but they shall be tryed by the Country, that is, by Freeholders, for that they are not of the degree of Nobility.

2, That no Nobleman shall be tryed by his Peers, but only at the Suit of the King upon an Indictment of High Treason, or misprision of the same, petit treason, murder, or other felony, or misprision of the same: but in case of a premunire, or the like, though it be at the Suit of the King, he shall not be tryed by his Peers, but by Free-holders: And so in an appeal at the Suit of the party for petit Treason, murder, robbery, or other felony, he shall be tryed by Free-holders.

3. Albeit a man be Noble, and yet no Lord of *Parliament* of this Realm, he shall be tryed by Knights, Esquires, or others of the Commons. And so it is of the Son of a Duke, Marqueess, Earl, &c. he is Noble, and called Lord, and yet because he is no Lord of *Parliament*, he shall be tryed as under the degree of a Peer, and Lord of *Parliament*.

Scandala Magnatum.

Priviledg
7,

By the statute of *West. 1. c. 34.* if any person shall divulge false Tales of any of the Lords of *Parliament*, by which dissention may be betwixt the Commons and them, the Offender is to be imprisoned until he bring forth the Author.

Strangers.

Priviledg
8

Whereas by the Statute of *32 H. 8.* no Subject might keep in his Family above Four Strangers born, yet by a proviso every Baron may keep six.

Day of Grace.

Priviledg
9,
Co. Lib. 9.
49, a,
27 H. 8,
22, b, Co.
Lit, 135, a,

In the prosecution of any Action personal, the Plaintiff may pray *Jour de Grace*, but against a Peer of the Realm it shall not be allowed, because that the Baron is presumed to attend the publique.

Forrests.

Priviledg
10,
Charta de
Foresta c.
11, Co, 4,
Inst, 308,
& 309,

Every Earl or Baron coming to the King at his commandment, and passing by any of the Kings Forrefts, Chases, or Parks, may hunt and kill one or two of the Kings Deer.

As to this priviledg, the Reader is to take notice of these particulars.

I That

1. That although the words of *Charta de Foresta* be, *Quicumque Comes vel Baro, &c.* yet every Lord of Parliament, as Dukes, Marquesses, and Viscounts which were Erected and Created afterwards, being Lords of Parliament, have the same priviledg also.

2. That the Lords of Parliament may do it at other times, *Ex gratia*, but by Law *enundo*, & *Redeundo*, to and from the Parliament.

3. That a Lord of Parliament may in the absence of the Forrester or Keeper, after the blowing of the Horn, kill one or two of the Kings Deer, *propriis suis. Canibus, aut arcu suo proprio.*

4. A Forrester or any other Officer of the Forrest cannot give a Nobleman a Course in the Forrest, but it is presentable.

Menaces.

If a man have a Cause to Require the peace against a Lord; he for so small a Cause is not to be Arrested by Warrant from a Justice, nor yet by a *Supplicavit* out of the Chancery, but the Lord Chancellor, or Lord Keeper may in such case grant to the party a *Subpoena* against that Lord for it, for such an opinion hath the Law conceived of the peacable disposition of Noblemen, that it hath been thought enough to take one of their promises upon Honor that he would not break the peace against a man.

Priviledg
11.
Lambard,

Clergy.

Priviledg

12,

By the Statute of 1 E. 6. c. 12. a Lord of Parliament shall have his Clergy for the first Offence of Felony, though he cannot Read, and without Burning.

Justices of Quorum.

Priviledg

13,

Whereas it is Ordained that the Justices of Peace named of the *Quorum* shall be Resident in his Shire, the *Peers* of the Realm are Ex-empted.

The Oath of Supremacy.

Priviledg

14,

Stat. 5. El:

6, 1,

By the Statute of 5 Eliz. c. 1. all Burgessees of Parliament shall take the Oath of Supremacy; so shall Knights, Citizens, and Barons of the Cinque-ports; but there is a proviso in that Statute, that for as much as the Queen is otherwise sufficiently assured of the Faith, &c. of the Temporal Lords; therefore this Act shall not compel any of or above the degree of a Baron to take the Oath, nor to incur any penalty.

Uniformity:

Priviledg

15,

1 Eliz, c, 1

In the Statute of 1 Eliz. c. 1. there is a proviso, that the Baron shall be tryed by his Peers, and not by any Ecclesiastical Courts.

Poss

relating to the Nobility and Gentry.

Posse Comitatus.

Though the Statute of 2 H. 5. c. 8. gives Authority to the Sheriff to raise *posse Comitatus*, yet may he not command the person of a Nobleman to attend that service.

Priviledg
16,
2 H. 5. c. 8

Deputies.

If an Office or place of Trust be granted to a common person, he cannot Occupy the same by Deputy unless the Grant be so made; but if an Office be granted to a Peer of the Realm, without power or license to constitute a Deputy, yet may a Baron exercise the same by Deputy. As if a Parkeriship be granted to an Earl without the words of making a Deputy, yet he may keep it by his Servants.

Priviledg
17,
Co. lib. 9.
Earl of
Shrewsbu-
ries case, f
49, a. b.

Protestation upon Honor.

In many cases the protestation of Honor shall satisfy in Noble-men, as upon the Tryal of a Peer, the other Peers are not Sworn, but are charged *Super fidelitatis, & Ligeantia Domino Regi debitis*.

Priviledg
18,
C. 2. 173.
49,
Co. 3. Inst
29,

But there are Cases wherein a Peer ought to be Sworn, as appears by this Resolution given in the *Starr-Chamber*.

Upon the 13th. of February Anno 1626. in the Court of *Star-chamber*, all the Justices of

Co, 3 part
the Earl of
Lincoln
1st, f. 64.

both Benches being there, and all the Barons of the Exchequer, and a very great Assembly of Lords, and divers others of the privy Council: It was moved, whereas Sir Henry Fines Knight, had Exhibited his Bill in the *Starr-chamber* against the *Earl of Lincoln*, for divers Ryots, and other misdemeanors, and the *Earl of Lincoln* had taken a Commission forth to put in his Answer upon Oath in the Country, and he offered before them his answer upon his Honor, but would not put in upon Oath, because he was a Peer of the Realm, which matter being now Reported by the *Comissioners*, it was now moved by the *Kings Solicitor* to have the Resolution of the Court, and it was held by all the Justices who delivered their Opinions *Seriatim*, that the Lords in cases Criminal, (especially where the King is party) ought to put in their Answer upon Oath; and in all Cases where they are to be Witnesses betwixt party and party, they ought to be Sworn, and the Lord Keeper said *Quod in Judicio non creditur nisi Juratis*, and that he had caused presidents to be searched, and had found divers since the first of Queen *Elizabeth*, wherein Peers of the Realm being impleaded in *Chancery*, or *Starr-Chamber*, or *Court of Wards*, have been alwayes Sworn; and he said, when a Peer affirms any thing which is not true upon his Honor, there is not any Remedy, by the Statute of 5 *Eliz. c. 9.* against *perjury*; wherefore they all Resolved, that the *Earl of Lincoln* ought to be Sworn, and of the same Opinion were

all

all the Lords and Counsellors, which they delivered *Serialim*, *Nullo contradicente*, because it is *Juramentum purgationis*, and not *promissionis*, and Princes are Sworn to their leagues and confederacies, which is called *Juramentum confirmationis*; neither is it any diminution to the said Earls Honor to be Sworn about that, which he would not should be put upon his Honor.

Chapleins.

It is provided in the statute of 21 H.8.c.13. *Priviledg* touching *pluralities*, that Chapleins to *Peers* 19, of the Realm may purchase Licenses, and have more Benefices with Cure of Soul then one.

A Duke may have six Chapleins, a Marquess and an Earl may have five, a Viscount four, and a Baron three Chapleins, whereof every one may purchase license or dispensation, and take, receive, and keep two Parsonages, or Benefices with cure of souls.

Note, if a Duke, Earl, or Baron Reteineth a Chapleyn, and before his Advancement be Attainted of Treason, there the Retainer is determined, and after the Attainder, such Chaplain cannot take a second Benefice, because he that is Attainted is by his Attainder a dead person in Law. There be several other privileges allowed the Peerage of the Realm, which for brevity sake I shall omit to mention: And thus much of the Superior Nobility, or Peerage, comprehending the Prince, the Dukes, the

The Law of England,
Marquesses, the Earls, the Viscounts, and the Barons. I now proceed to the second part of my division of the *Nobility of England.*

2. *Of the Inferior, or Lesser Nobility of England.*

Co. 2. Inst.
 666.

THere is a division given in our Books of the *Inferior, or Lesser Nobility, viz.* some be names of *Dignities*, as all *Knights*, and *Baronets*, and some be names of *Worship*, as *Esquires*, and *Gentlemen*; and first of the *Names of Dignity, viz. Knights, and Baronets.*

Knights.

There be in our Law Four Kindes of *Knights.*

Knights { *of the Garter.*
Banneret.
of the Bath.
Batchelor of the Spurr.

1. *Of Knights of the Garter.*

Touching *Knights of the Garter*, are worthy of observation these following particulars.

The

1. The Erector or Founder of this Order. 2. The electing of these Knights. 3 The number of them. 4 The dependants on this Order of the Garter. 5 The Officers belonging to this Noble Order. 6 The habit of this Order.

King Edward the Third, after he had obtained many great Victories of John the French King, and James King of Scotland, both prisoners in this Realm at one time, Henry of Castile the Bastard expelled, and Don Pedro Restored by the Prince of Wales, did first Erect this most Renowned Order, in his Kingdom Anno Dom. 1350.

1 The founder of the Order.

In the Election of these Knights two things there are which they especially Observe.

2 The Election of these Knights.

First, that the party nominated be a Gentleman of Name and Armes for three Descents both by the Father-side, and Mother-side.

Secondly, That the party nominated be without spot, or foul Reproach, as viz: not convict of Heresie, nor Attainted of Treason, nor by his prodigality and Ryot decayed in his Estate, whereof he is not able to conserve the Honor of his Order, nor such a one as ever fled in day of Battel; in all which Ca-

The Civil Law, Nobilitati derogat vita sordida, ut cum quis vice aliquod Artificium exerceat & maxime

vita turpis, & inhonesta, cum Honorum reatus excludat, nec ei servandas sit, qui se in scelus deduxit.

ses a Knight Elected and Installed may also, if the Sovereign please be degraded.

3 the number of this Order, The number of this Order consists of 26 Martial Knights, and Heroical Nobles, whereof the King of Engl. is the chief, and the rest be either Nobles of the Realm, or Princes of other Countries, Friends and Confederates of this Realm, the Honor being such as Emperors, and Kings of other Nations have desired, and thankfully accepted it.

4 the Dependents, There are depending upon this Order 26 poor Knights, that have no other sustenance of living but the allowance of the House at *Windsor*, which is given them in respect of their dayly prayer to the Honor of God, and (according to the course of those times) of Saint George, who is the Patron of this order.

5 the Officers attending, There are certain Officers appertaining unto this Order, as namely the *Prelate* of the *Gar-ter*, which Office is inherent to the Bishop of *Winchester* for the time being, the *Chancellor*, of the *Gar-ter*, the *Register*, who is alwayes Dean of *Windsor*, *Gar-ter King at Armes*, whose office is to manage and marshal their Solemnities at their Yearly Feasts: Lastly, the *Usher* of the *Gar-ter*, which is the *Usher* of the *Princes Chamber*, called the *Black Rod*. As to that Officer called the *Chancellor* of the *Gar-ter*, I shall present the Reader with this Resolution following.

Pasch. 6
Jac. the
Bishop of
Salisbury's
case Co. 4.
Inst. 200,

Pasch. 6: *Iac.* the case between the King and the Bishop of *Salisbury* referred to the two chief Justices, and chief Baron, by the Lords of the Honorable Order of the *Gar-ter*.

was

was this: King E. 4. by his Letters Patents in French, bearing date the 10th. of October, Anno 15. of his Reign, reciting that where there was no Office of the Chancellor of the Garter, that there should be such an Office of the Chancellor of the Garter, and that none should have it but the Bishop of Salisbury for the time being: *We will and ordein*, that Richard Beauchamp now Bishop of Salisbury should have it for his life, and after his decease that his Successors should have it for ever; and amongst divers other points, it was resolved unanimously, that this Grant was void, for that a new Office was Erected, and it was not defined what Jurisdiction or Authority the Officers should have, and therefore for the incertainty it was void; which being reported to the Lords, they were well satisfied therewith, and thereupon the Office was granted to Sir John Herbert the Kings Secretary.

The habit of this Renowned Order is an under Garment, or a Gown of Crimson Velvet, of some called a Kirtle, over which the Knight weareth a mantle of purple Velvet lined with white Sarsnet, on the left shoulder thereof is imbroidered in a Garter an Escutcheon of St. George, and over his Right shoulder hangeth his hood of crimson Velvet lined with white, the Cordons to the Mantle are purple silk, and gold; above all which, about his neck he weareth the collar of the Order, being of pure gold, made of garter, and knots, and enamel'd with Roses white and red, weighing 30 ounces

ces of Troy-weight, with the Image of *Saint George*, richly garnished with pretious stones; pendant thereat, about his left legg he weareth buckled a Garter enriched with gold, pearl, and stones; whereupon the *French* words are imbroidered, *Hont soit qui Mal y Pense*; which may be thus Englished, *Shame to him that Evil thinketh.*

2. Of Knights Banneret.

Co. 4. Inst. f. 6, Banner legally *Banerium*, *Vexillum*, *Banther*: unde *Banetherius*, or *Banerius*, i. *Baro*, *Vexillarius Major*, and *Banerettus*, a diminutive of *Banerius*, *Vexillarius minor*: A *Baron* is called *Banerherius*, or *Banerius* of the *Baner*, (being the Ensign of his Honor,) serveth for a guide and direction; so the *Baron* observing the end of his Nobility should be an example and guide to others as well in War as in peace, in all notable Habilities and Vertues, and so of the *Baneret*; both the *Baron* and *Baneret* hath one kind of *Baner*; for the *Baneret* is created in the Field in the Kings Host, and (amongst other things) by cutting the sharp point of his Pennon, and making a *Banner*, i. e. *Vexillum Baronis*; so as the *Baneret* hath the *Baner*, but not the dignity of the *Baron*. Thus *Sir Edward Coke*, and with him doth agree *Sir Thomas Smith*, who saith that a *Baneret* is a Knight made in the Fields, with the ceremonies of the cutting of the point of his *Standard*, and making it as it were a *Banner*; and they being before *Butcher*

*Lib. 1, c. 18
de Rep.
Angl.*

ler

relating to the Nobility and Gentry.
 ler Knights, are now of greater degree, allowed
 to display their Arms in a Banner in the Kings
 Army as Barons do.

The manner of the Solemnity used in the
 making of a Knight Banneret is thus, as I am in-
 formed by Sir William Segar:

A person (says he) that is to receive this
 Honor, shall be brought between two other
 Knights before the King, or General, bearing
 his Pennon of Armes in his own hand, and in
 the presence of all the Nobility, and other
 Captains, the Herauld shall say unto the King,
 or General these words: May it please your
 Grace to understand, that this Gentleman hath
 shewed himself Valiant in the Field, and for so
 doing, deserveth to be advanced unto the Degree
 of a Knight Banneret, as worthy from hence-
 forth to bear a Banner in the War; then the
 King or General shall cause the points of his
 Pennon or Guydon to be Rent off: And the
 new Knight shall go unto his Tent conducted
 between two other Knights, the Trumpets
 sounding all the way before him.

John Coupland a valiant Leader in anno Co. 4, Inst.
 20. E. 3. near Durham at Nevills Castle, took f. 6,
 in aperto praelio, David the second King of
 Scots, for which King E. 3. created him
 Knight Banneret, and gave him Lands and Li-
 vings.

Note, that no Knight Banneret can be made,
 but in the War, and the King present, or when
 his Standard Royal is displayed in the Field.

3. Of Knights of the Bath.

Knights of the *Bath* are the Order of Knights made within the Lists of the *Bath*; girded with a Sword in the ceremonies of his creation, they are usually created at the Coronation of the King, and are spoken of *anno 8. E. 4. cap. 2.*

Touching a Knight of the *Baths* being sued by the Title of *Baronet*, take this Resolution.

Cro. 2.
part For-
tescue, v.
Mark-
ham,

Error of a Judgment given in an *Assumpsit*; the Error assigned was, that he the now Plaintiff at the time of *Markhams* bringing his Action against him, was, and yet is a Knight of the *Bath*, in the which case the then Plaintiff ought to have brought his Bill against him by the Name of *Fortescue* Knight of the *Bath*, and not by the Name of *Knight* and *Baronet*; but for as much as he hath appeared to that Name, and pleaded thereto, he hath concluded himself; and so the Judgment was affirmed by 7 Justices at *Serjeants Inn* in *Fleet-street*.

4. Of Knights Bachelor.

Although *Knights Bachelor* are in Order ranked last, yet by Institution they be first, and of greatest Antiquity.

Concerning these *Knights*, I shall propose these *Quæres* with their Resolutions.

Qu. 1. *Whether he that is a Knight ought to be so named in all Writs and Indictments at the Common Law?*

Sol. It is Resolved in our Books, that the name of this *Knight* is a name of dignity, and of the Inferior degree of Nobility, and therefore is parcel of his Name, and in Writs and Indictments he ought to be named *Knight* by the common Law; but so it is not of the state of an Esquire, or Gentleman.

Co. lib. 6.
53.
Co. 2. Inst.
594.
Co. lib. 7:
fi. 27:

Qu. 2. *Whether a person under Age, and Knighted, living yet his Father, shall be in Ward?*

Sol. If one be made a *Knight* in his Fathers life, he shall not be in Ward, neither for Lands descended, nor for Marriage; but otherwise if made a Baron, an Earl, &c.

Co. 2: part
Druries
case,
Co: lib: 6.
Druries
case.

Qu. 3. *Whether a greater dignity can drown a lesser Dignity?*

Sol. It is adjudged that a greater Dignity doth never drown a lesser dignity, but both stand together in one person; and therefore if a *Knight* be created a Baron, yet remaineth a *Knight* still; and if a *Baron* be created an Earl, yet the dignity of *Baron* remaineth, & sic de ceteris; but if an Esquire, (which is no Name of Dignity) be made a *Knight*, the degree of Esquire is changed, and cannot be named in any Judicial proceeding.

Co. 1, last.
594.

Qu. 4. *Whether the Honor of Knighthood, or of a Baron &c. conferred by a Foreign Prince ought to be here admitted?*

Sol. If one be made a *Knight* by a Foreign Prince, he is to be so stiled in all Legal proceedings.

Co. lib. 7,
Calvins
case,

Cambd.

Eliz. 4180
1596,

ceedings in this Realm: But if a man be created by the Emperor an *Earl*, it is otherwise, as it shall be made speear in the case of *Thomas Arundel of Wardour*, who having done singular good service at the *Hungarian War* at *Gron* against the *Turks*, the Emperor by his Letters Patents created him *Earl of the Holy Empire*, when he being Returned into *England*, began to be known amongst the common people by this Title of *Honor*; a question arose, whether such a Title conferred by a Forreign Prince upon the *Queens Subject* without acquainting her were to be admitted? Some there were which thought that the Rewards bestowed in respect of vertue, by what Prince soever, are to be admitted; for Vertue languisheth, unless well deservers be encouraged by Rewards; but the *Barons of England* guessing that this would be prejudicial to them and theirs in prerogative of Honor, argued to the contrary in this manner; that such Titles of Honor are not to be accepted by Subjects, nor admitted by the Prince; that it belongeth to the Prince, and not to any other whatsoever to distribute Dignities to their Subjects, according to the saying of *Valerian* the Emperor, *Let that Dignity only hold which is borrowed by our will*: for much is detracted from the Princes Majesty, and the Subjects Obedience, if they may be permitted to receive Honors from Forreign Princes: for a Tacit Contract of Fidelity seemeth to pass between the Honorer, and Honored; that such titles are secret Enticements to withdraw the hearts

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hearts of Subjects from their Princes: That an Action of Theft lyeth against him that shal brand another mans Sheep with his mark; and an Action of Fraud against him that by strewing of Foods should entice another mans Sheep to his Flock. That though *Sovereign Princes* be not bound by these Laws, yet are they bound by the Equity of Laws, even out of the Law of Nature, as in the Common-wealth of *Rome*, no man could be a Citizen at *Rome*, and of another City, whereupon *Pomponius Atticus* refused to be chosen a Citizen of *Athens*, least he should loose the priviledg of the City of *Rome*. The Queen being asked her Opinion hereof, said; between *Princes* and their Subjects there is a most straight tye of Affections. As chaste Women ought not to cast their Eye upon any other then their Husbands, so neither ought Subjects to cast their Eyes upon any other *Prince* then him whom God hath given them: I would not have my Sheep branded with another mans mark; I would not that they should follow the whistle of a stranger Shepheard. Hitherto of *Knights*. I proceed to the other name of Dignity, viz. *Baronets*.

The Title of *Baronet* became a new distinct *Baronets*. Title under King *James*, who for certain Disbursements towards the Plantation in *Ulster*, created divers into this Dignity, and made it Hereditary by his Letters Patents; by virtue of which Letters Patents these *Knights* must have precedency in all Writings, Sessions,

ons, and Salutations before all Knights, as well of the *Bath*, as *Knights Batchelors*, as also before all *Bannerets* created, or hereafter to be created, except only those *Bannerets* which shall be created under the Kings Standard in an Army Royal, and the King personally present, and no otherwise,

28 Maii
anno 10
Jac: Regis,

Upon point of precedency a great controversy grew afterward between these new *Baronets*, and the younger Sons of Viscounts and Barons, and after the Counsel on both parts three several dayes at large heard by the King in person, it was decreed, adjudged, and established, that the younger Sons of Viscounts and Barons shall take place and precedency before all *Baronets*; and that such *Bannerets* that shall be made by the King, his Heirs, and Successors under his or their *Standard*, displayed in an Army Royal in open War, and the King personally present, for the term of the lives of such *Bannerets*, and no longer, (according to the most antient and noble Institution) shall for ever hereafter in all places, and upon all occasions take place and precedence as well before all other *Banerets* whatsoever, (no respect being had to the time and priority of their Creation,) as likewise before the younger Sons of Viscounts and Barons, and also all *Baronets* shall in all places, and upon all occasions, take place and precedence before all *Bannerets* whatsoever, other then such as shall be made by the King himself, his Heirs, and Successors in person; and
in

in such special manner and form as afore-
said.

It was Resolved that the *King* may Erect
any name of Dignity, which was not before,
and for that Reason the *King* may create a dig-
nity by the name of a *Baronet*, to him and his
Heirs Males of his body issuing. It was like-
wise Resolved that if the *King* doth not cre-
ate him of some place, he shall not have an
Estate Tayl, but Fee-simple conditional, which
shall be forfeited for Felony. But if the *King*
create a *Baronet* of a *Place*, then he shall have
an Estate Tayl within the Statute of *West. 2.*
And the *King* may grant unto him and his
Heirs Males of his Body precedency before
Knights Baronets, *Knights of the Bath*, and
Knights Batchelors, and also may grant Prece-
dency to their Wives, Sons, and Daughters;
and that he cannot create any Dignity above
the dignity of a *Baronet*, and under the dig-
nity of a *Baron*; and the creation of this dig-
nity of the *Baronets* shall not discharge the
Heir to be in Ward, as if the Heir be
made a Knight, for he is not made
Knight by this, for the Dignity of a Knight is
not descendable.

It may be Queried, *Whether a Baronet be
a Name of Dignity, and within the intention of
the Statute?*

Debt upon an Obligation: The Defendant
in Abatement of the Writ pleaded that the
Plaintiff *puis darraigne continuance* was made a
Baronet, and it was thereupon doubted whe-
ther the Writ should abate, for that the Sta-

Cro, 3. part
Sir Simon
Benners
case, f:
104,

tute Recites the dignities of Dukes, Earls, Viscounts, Barons, Justices of both Benches, and Serjeants at Law, but mentions not *Baronets*; whereby it seemeth it was not a dignity known at the making of that *Statute*; but if it were a dignity then known, and omitted out of the said *Statute*, the Court then held it to be out of the *Statute*; but it was then doubted by the Court whether, if it were a dignity created after the *Statute*, the said *Statute* should in Equity Extend thereunto, and the Court directed, that the *Plaintiff* should demur thereunto, and upon Argument it should be resolved; but in regard it was only in Abatement of the Writ, and it would be but a *Respondes Ouster*, though Adjudged for the *Plaintiff*, the *Plaintiff* thereupon offered to bring a new Original, and the *Defendant* consented to Appear *gratis* thereunto, and plead in Bar; and so these doubts were left undetermined.

Sir Henry Ferrers Baronet was Indicted by the Name of Sir Henry Ferrers Knight for the Murther of one Stone, whom one *Nightingale* feloniously murdered, and that the said Sir Henry was present, aiding and abetting, &c. Upon this Indictment Sir Henry Ferrers being arraigned, said, that he was never Knighted, which being confessed, the Indictment was held not to be sufficient, wherefore he was Indicted *de novo*, by the name of Sir Henry Ferrers Baronet.

Sir George Grisley now Baronet was bound in a Statute Merchant of 1000 pounds before

the Major of *Coventry* to one *Drury*, and now upon a Certificate made by the Major into *Chancery*, took out a *Capias* against *Grisley* by the name of *George Grisley Esquire*, as he was named in the statute returnable the last Term. Whereupon Writs of Extent were made into the Counties of *Derby*, and *Stafford* which were Executed, and returned. And now *Montague* prayed that all might be amended, but it was denyed by the Court; and he was willed to sue a Writ out of the *Chancery* upon the first Certificate: *Capias Corpus Georgii Grisley, mil, & Baronet. qui per nomen G. G. Armigeri recognovit, &c.* for this was matter that must come of the Information of the party.

Hob. Rep.
Sir Geo:
Grisleys
case 129

Thus much of the Names of Dignity, viz. Knights, and *Baronets*. And now come to those of Worship, and they are *Esquires*, and *Gentlemen*.

✓

Esquires.

AN *Esquire*, or *Escuier*, (commonly called *Squire*;) is he that was antiently called *Scutiger*, and to this day in the Latine is named *Armiger*: These *Esquires* (says one) are *Gentlemen* bearing Arms, or Armories as the *French* do call it, in testimony of the Nobility of their Race from whence they are come.

Co. 2. Inst.
l. 668,

There is small difference betwixt an *Esquire*, and a *Gentleman*, for every *Esquire* is a *Gentleman*, and every *Gentleman* is *Armigerus*.

Co. 2. Inst.
667.

As a name of Estate and degree it was used in divers Acts of *Parliament*, before the making of the Statute of 1 H. 5. c. 5. of *Additions*, and after this Act also. Rot. Par. an: 1. E: 4. *John Lord Audeley*, an antient, and a Noble *Baron*, was named *Johannes Audeley Armiger*, for that all the rest of the *Barons* that appeared at that *Parliament* were *Knights*; and all *Dukes*, *Marquesses*, *Earls*, *Viscounts*, and *Barons* of other Nations, or which are not *Lords* of the *Parliaments* of *England* are named *Armigeri*, if they be no *Knights*, and if *Knights*, then they are all styled.

Note that according to *Somerfet Glover*, there are four several sorts of *Esquires* in *England*, viz.

1. Of them, and most antient are the *Eldest Sons* of *Knights*, and *Eldest Sons* of them successively.

2. Of them, that are the *Eldest Sons* of the younger *Sons* of *Barons*, and *Noble-men* of higher degree, which take end, and are determined when the chief *Males* of such *Elder Sons* do fail, and that the *Inheritance* goes away with the *Heirs Females*.

3 Sort are those that are by the King created *Esquires* by the gift of a Collar of *S.S.* and such bearing Arms, are principal of that *Coat Armor*, and of their whole Race, out of whose *Families*, &c. although divers other

How

Houses do spring, and issue; yet the Eldest of that Coat-Armor only is an *Esquire*, and the residue are but Gentlemen.

4. And last sort are such as bearing Office in the Common-wealth, or in the Kings House, and therefore called and reputed to be Esquires, as Serjeants at Law; the Escheators in every *Shire*, and in the Kings House, the *Serjeant* of every Office, but having no Arms, that Degree dyeth with them, and their Blood is not Enobled thereby.

Touching Gentlemen, are worthy the Readers notice these particulars, viz. the Etymology of the word (*Gentleman*) the Armes of Gentlemen; the several kinds of Gentlemen.

1. The Etymologie.

Gentleman, (*Generosus*) seemeth to be made of two words, the one French, (*Gentil*, i.e. *Honestus*, vel *honesto loco natus*,) the other Saxon) (*Wen*) as you would say, a Man well born; so that *Gentlemen* be those whom their Blood and Race doth make Noble and known, *Wen* is in Greek, in Latine *Nobiles*; and they are said to be Noble, *Qui insignia Gentilicia generis sui proferre possunt*.

2. The Armes of Gentlemen.

Every *Gentleman* must be *Arma Gerens*, and the best tryal of a *Gentleman* in Blood, (which is the lowest degree of Nobility) is by bearing of Armes; for as in antient times the Statues of

Co. 2. Inst.
667:

of Images of their Ancestors were proofs of their Nobility; so of latter times Coat-Arms came in lieu of those statues or Images, and are the most certain proofs and Evidence of Nobility. Hence it followeth, that *Ius Nobilitatis* is nothing else but *Ius Imaginis*; inso-much that the word *Imago* doth oftentimes signifie Nobility, and the right of having Images with their Ancestors, was the same as the right of having Arms now with them.

As to Arms, I present to the Reader these few Quæres, with Resolutions to them out of our Books of Law.

Qu. 1. *To what Heirs be Armes descendable?*

Co. Lit, f.
27. a.

Sol. The Fee-simple (says Coke) that a Nobleman, or a Gentleman hath in his Arms, is only descendable to the Heirs Males Lineal or Collateral; for albeit a Female be Heir at the common Law, yet the Shield, Armories, and Arms descend unto them that are able to bear them: and all the Females of that Family, in respect that they be of the same Blood, may in a Losenge, or under a Curtain manifest of what Family they be, by expressing the Armories and Arms belonging to that Family, and the Husbands of them may unpale them, or quarter them with their own as the case shall require.

Qu. 2. *Whether Armes be of Gavel-Kind nature?*

Sol.

Sol. Gentry and Arms is of the nature of Gavel-kind, for they descend to all the Sons, every Son being a Gentleman alike. Which Gentry and Armes do not descend to all the Brethren alone, but all their posterity; but yet *Jure promogenitura*, the Eldest shall bear as a badge of his Birth-right his Fathers Arms, without any difference, but all the younger Brethren shall give several differences, & *additio probat minoritatem*. Co. Lit. fol. 140, b. ✓

Qu. 3. Whether a Grant of Armes or Armories to a man, and his Heirs Males be void.

If the King for reward of service granteth Arms, or Armories to a man, and his Heirs Males, without saying (of the Body) this is good, and they shall descend accordingly; but otherwise if the King by his Letters Patents giveth Lands or Tenements to a man, and to his Heirs Males this Grant is void, for that the King is deceived in his Grant, in as much as there can be no such Inheritance of Lands or Tenements which the King intended to grant. Sol. Co. Lit. 27 a. 18 H. 8. Patents Br. 104, ✓

Qu. 4. Whether the defacing of a Mans Armes that are set up in a Church be punishable?

Sol. If a Noble-man, Knight, Esquire, &c. be buried in a Church, and have his Coat-Armor, and pennions with his Arms, and such other Ensigns of Honor as belong to his Degree or order set up in the Church, or if a Grave-stone or Tomb be laid, or made, &c. Co. Lit, 18, b, Co. lib. 12, Corvens case, 9 E. 4. 14. La Wich- es case. Co. 3, Inst, for 202, ✓

✓ for a Monument of him; in this case albeit the Free-hold of the Church be in the Parson, and that these be annexed to the Freehold, yet cannot the Parson, or any other take them, or deface them, but he is subject to an Action to the Heir, and his Heirs in the Honor and memory of whose Ancestor they were set up. And some hold, that the Wife or Executors that set them up may have an Action in that case against those that deface them in their time.

✓ It was resolved in the *Starr-Chamber*, that Coats of Arms placed in any Window, or Monument in the Church, or Church-yard, cannot be beaten down, or defaced by the Parson, Ordinary, Church-wardens, or any other; and if they be, the Heir by Descent interested in the Coat, may have an Action upon the case; for the Heir is Inheritable to Armes as to Heir-Lomes. With our Law agree the Laws of other Countries, *vide Cassanum fol 13, Conc: 29.* and the Civil Law in *D. 47. 12. de Sepulchro violato. Cod. 9. 19. de Sepulchro violato.*

3. *Of several Kindes of Gentlemen.*

OF *Gentlemen* there are Four sorts, as appears in our Books, viz.

1. *A Gentleman by Birth.*

2. *A Gentleman by Office.*

Such as Clerks that are Officers in the Kings Courts of *Record*; and if they be out of their Office, they are but Yeomen, and yet as long as they continue in their Office, they ought to be named *Gentlemen* as their due Addition.

3. *A Gentleman by Reputation.*

Commonly called *Gentleman*, and known by that Name, and this is a sufficient Addition within the Statute of 1 H. 5. c. 5. of Additions.

4. *A Gentleman by Creation.*

Of the Kings creating a *Gentleman*, take this Example.

A French Knight challenged John Kingston (a good and strong man at Armes, but no Gentleman.)

Co. 2. Inst,
595, &
663.

tleman,) as the Record saith, *Ad certa Armorum puncta perficienda. Rex, ut predictus Johannes Honorabilis in præmissis accipitur, ipsum Johannem ad Ordinem Generosorum adoptavit, & Armigerum constituit, & certa Honoris insignia concessit.* And when the King had thus done, the Monsieur must be forced to grant, that this Kingston was a compleat Gentleman; for as it is a prerogative of the Kings Sovereign power to put a value on base Mettal by his Impression, or character, even so is it to give Estimation to a mean person, by conferring on him a mark of Honor and Dignity; *Sic fiet viro quem Rex Honorare desiderat: And the Civil Law saith; Honorandus est, quem Princeps Honorat. Nam nullus debet esse tantæ superbix fastigio tumidus, ut Regalem sensum contemnat.*

Thus



THus having presented to my worthy Reader a short view of the Law appertaining to the Nobility and Gentry of England, I shall presume by way of APPENDIX to the Work, to speak somewhat touching

1. The Honorable Court of CHIVALRY before the Constable, and Marshal.
2. The precedency of the Great Officers, and Nobility of this Realm.
3. The Precedence of Kings, and Supream Princes.

1. Of the Court of Chivalry.

The proper Court of Honor, and Armes, is the Court of Chivalry; concerning which Honorable Court are worthy of notice these particulars.

- | | |
|---|--|
| } | 1. The stile of this Court. |
| | 2. The Judges of this Court. |
| | 3. The Matters, Power, and Jurisdiction of this Court. |
| | 4. The Attendants on this Court. |
| | 5. The Law by which this Court Proceeds. |

1. The

1. *The Stile of this Court.*

This Court is called *Curia Militaris*, Rot. Pat. 12, H. 4. m. and the *Marshal Court*, Rot. Parl. 2. H. 6. nu. 9. Likewise the Court of *Chivalry*, and the Court of *Honor*.

2. *The Judges of this Court:*

The Judges of this Court are the *Lord Constable*, and *Earl Marshal*.

As to the former *Officers* are observable, the Etymologie of the word *Constable*; the tenure of his *Office*; the Effect of the Kings Grant to him and his under-Officers.

1 The Etymologis:

Constable, or *Cunstable* is compounded of two Saxon words, *Cuninge per Contractionem* King, and *Stable, id est Columen*, quasi *Columen Regis*, antiently written *Cuningstable*, Co. 4. Inst. 123.

2 The tenure of his Office.

This great Officer hath been long discontinued; neither was any continuing *High Constable* of England, since 12 H. 8. when *Edward Duke of Buckingham* was Beheaded: He was the last *High Constable*, and by Inheritance of Tenure from the *Bobuns*, as you see in 6 H. 8. *Kelw.* 170. and 11 Eliz. *Dyer* 285. b. & vide Rot. *Fim.* 3. Ed. 1. memb. 14. Thus much the Author in his Notes on *Forescne.*

This

This Office of the *Constable of England*, says *Coke* was at first eligible, but afterwards it was of Inheritance by the tenure of the Mannors of *Hailefield*, *Newman*, and *Whitenhurst*, by grand *Serjeanty* in the Line of the *Bobuns* Earls of *Hertford*, and *Essex*, and afterwards of Right in the Line of the *Staffords*, and Dukes of *Buckingham* as Heirs general to them: At the last by the opinion of the Judges, it was lawfully descended to *Edward Duke of Buckingham*, who was Attainted of Treason in anno 13. H. 8. whereby this Office became Forfeited to the Crown, and since that time both in respect of the Amplitude of the Authority both in War and Peace, and of the charge it was never granted to any Subject but now of late, *hac vice*, Co. 4. Inst.

127.

The Effect of the Grant of his Office of *Constable of England* is in very few words, viz. ^{3 The Effect of the Kings Grant to him.} *Officium Constabularii Anglia una cum omnibus feodis, proficuis, Commoditatibus & emolumentis quibuscunq; Officio predicto qualitercunq; pertinentibus, & ab antiquo debitis & Consuetis.* And this great Office hath been usually granted, *Exercendum per se vel per sufficientes deputatos suos, seu per sufficientem Deputatum suum*, Co. 4. Inst. f. 127, & 128.

There was an Office of *Subconstabularium* ^{4 His under Officer,} granted to *Thomas Kent* Doctor of Law, Pat. 23 H. 6. part 2. simile Pat. 22 E. 4. m.

There was also a *Clericus Subconstabularii Angliae, & procurator Causarum & negotiorum Regiam*

The Law of England,

Regiam Majestatem tangen. This Office was granted to *Thomas Appulton* with a Fee of Five marks, *Pat. 8. E:4. part 1.* Thus much of the *Lord Constable of England.*

As to the latter Judg, or *Grand Officer*, there are worthy of our observation these things. The *Etymologie* of the word *Marshal*, his office, and *Eminency*; and the grant of this Office.

1 The Etymologie,

Marshal, antiently written *Marscale*, is derived of two *Saxon* words, viz. *Marc.* for *Equus*, and *Stale*, which signifieth a *Master*, or *Governor*, *Curator Equorum*, *Co: 4. Inst. 12 5. Co: Lit: 74. a.*

2 His Office and Eminency.

With us there be divers of this Name, but one most Noble of all the rest, who is called *Lord*, or *Earl Marshal of England*; of whom mention is made in divers Statutes, as *anno 1. H. 4 c. 7. & 14. anno 13 R: 2. c; 2.* his Office consists especially in matters of War, and Armes as well with us as in other Countreies: But he that will truly know the Office of our *Earl-Marshal*, had need beside the Statutes that concern him, to read his Commission, and also have Access to the *Heraulds*, who out of their Antiquities are able to discover much, that by prescription belongeth to this Office.

King *R: 2.* in 21. of his Reign granted to *Thomas Holland*, Duke of *Surrey*, *Earl Marshal of England*, *Quod idem Dux ratione Officii sui, babeat, gerat, & deferat quendam Baculum ex-rem circa utrumq; finem, de nigro annulatum,*

non

*non obstante quod aliquis alius ante hæc tempora,
Baculum ligneum Consueverit.*

Concerning the Grant of the Office of Earl-
Marshal, (which Office ever passed by the
Grants of the King, and never belonged to any
Subject by reason of Tenure, as the Stew-
ardship and Constableness of England some-
time did,) take this one President.

3 The
grant of
this Of-
fice.

Rex &c. Sciatis quod cum nos nuper de gratia
nostra speciali concessimus dilecto Consanguineo
nostro Thomæ Comiti Nottingham Officium
Marescalli Anglie, habendum ad totam vitam
suam: Nos jam de alteriori gratia nostra concessi-
mus prefato Consanguineo nostro Officium predi-
ctum una cum nomine & Honore Comitis Mares-
calli: Habendum sibi & Heredibus suis Mas-
culis de Corpore suo exeuntibus cum omnibus
feadis, proficiis, & pertinentiis; quibuscunque
dicto Officio qualitercunque spectantibus imperpe-
tuum testibus, &c. Dat. 12 Junii anno Regni
sui 20. This Charter of Creation is confir-
med by Act of Parliament: Co: 4. Inst:
j: 128.

Rot.Chart.
20 R. 2. m.
1 m. 3.

This is the
first stile
that ever
came in a-
ny Patent.

Coke in his Comment on Littleton tells us,
that there were divers Lords Marshals of
England before the Reign of R. 2. yet King
R: 2. created Thomas Mowbrey Duke of Nor-
folk, and the first Earl-Marshal of England,
per nomen Comitis Marischalli Angliæ, Go: Lit:
106. a. Hitherto of the Earl Marshal.

3. *The Matters and Jurisdiction of this Honorable Court of Chivalry.*

When Honor the Reward of Vertue, and Armes (the Ensignes of Honor) are once conferred on any Subject, or possessed by any one, if there hapneth any Contention between Competitors for the same, pretending several Challenges thereto; the antient policy of *England* hath instituted a special Court, titled (as is said before) the Court of *Chivalry*; the Jurisdiction and Authority of which is immediatly derived from the Imperial Crown of *England*; the Jurisdiction of which Court doth consist in the execution of that part of distributive Justice which appertaineth to the advancement and support of Vertue. Thus much *Dodridg*.

Of this Court Mr. *Gwyn* in the preface to his Readings saith to this purpose, the Court of the *Constable*, and *Marshal* determineth Contracts touching Deeds of Armes out of the Realm, and handleth things concerning Wars within the Realm, as Combats, Blasons of Armory, and such like; but he hath nothing to do with Battel in appeal, nor generally with any other thing that may be tryed by the Law of the Land: *vide plus Co: 4. Inst. 124. Fortescue cap: 32.*

V If two *English* men do go into a Forreign Kingdom, and fight there, and one murder the other, *Lex Terræ* extendeth not hereunto, but this Offence shall be heard before the
Constable

Constable, and Marshal, and such proceedings shall be there, by Attaching the Body, and otherwise, as the Law and custom of that Court have allowed by the Laws of the Realm: Co: 2. Inst. 51. on Magna Charta, c: 29. 13 H: 4. 5. Stat: 1 H: 4. c: 14. Co: Li: 74. a. Co: 4. Inst: f: 124.

4. The Attendants on this Court.

That Right and Justice might be the better executed, there are persons Attendant on this Honorable Court skilful in Descents, Pedegrees, and Armories, viz. the *Heraulds*: Of these *Heraulds* there be *Tres Reges*, viz. *Garter Rex Armorum*, *Clarenceux Rex Armorum ex parte Australi*, *Norrey Rex Armorum ex parte Boreali*, and six other *Heraulds* properly called so according to the Original, as they were created to attend Dukes, &c. in Martial Executions, viz. *Tork*, *Lancaster*, *Somerset*, *Richmond*, *Chester*, and *Windsor*. There be also four others called *Marshals*, or *Pursuivants* at Arms, reckoned after a sort in the number of *Heraulds*, and do commonly succeed in the place of *Heraulds* as they dye, or be preferred, and these be *Blew Mantle*, *Ronge Cross*, *Rouge Dragon*, and *Percullis*.

These *English* *Heraulds* (says Coke) are Messengers of War and Peace, skilful in Descents, Pedigrees, and Armories, they Marshal the solemnities of Coronations, they manage the Combats before the Constable, and *Earl-Marshal*, and upon Request they solemnize

The Law of Engand,

the Funerals of Noble, Honourable, Reverend, and Worshipful personages : Co: 4. Inst: fol: 125, 126.

5. And Lastly, *The Law by which the Court doth proceed.*

The procedure is according to the customes and usages of this Court, and in cases omitted according to the civil Law, *Secundum Legem Armorum*; and therefore upon Attainders before the Constable and Marshal of *England* for the time being, no Land is Forfeited, or corruption of Blood wrought. Co: 4. Inst: f: 125. Thus much of the Court of *Chivalry*, and now I come to the precedency of the Nobility,

2. *Gf the precedency of the Great Officers, Nobility, and others of this Realm according to the Act of Parliament made in 31 H. 8.*

As it solely appertaineth to the King to confer Titles of Honor and Dignity on his Subjects, (for from the Royal Majesty of the King, all other Subordinate Dignities are derived without any Diminution of his own Princely and Sovereign Power and Honor, Co: Lit: 163. a. Co: 4. Inst: 243. lib: 12. Countess of *Shrewsburies* case; so at the common Law, the King by his Prerogative Royal might give such Honor, Reputation, and placing

cing to his Counsellors, and other his Subjects as should be seeming to his Wisdom, which prerogative was so declared by Act of Parliament, 31 H. 8. c. 10. in the Preamble. By vertue therefore of this prerogative H. 6. granted to Henry Beuchamp, *ut primus & principus esset Angliæ comes, & hoc titulo uteretur;* Henricus *Præcomes totius Angliæ, &c.*

The same King created Edmond of Hadham to be Earl of Richmond, and granted him precedence before all other Earls. He also created Jasper of Hatfield Earl of Pembroke, and gave him precedence before all other Earls next to his Brother the Earl Edmond, Earl of Richmond: Co. 4. Inst. f. 361.

The civil Law says thus: *Ordinis cuiuscunque arbitrium est penes Imperatorem. Inter Nobiles primus est Imperator, cum omnis ordo ab ipso pendeat, Zouchaus.* But King H. 8. though standing as much upon his Prerogative as any of his Royal Predecessors, yet finding how vexatious it was to himself, and how distastful to his Antient Nobility to have new raised degrees to have precedence of them, and finding that this kind of controversie for precedence was of that nature that it had many partakers, spent long time, and hindred the Arduous, Urgent, and weighty Affairs of the Parliament, was content to bind and limit his Prerogative by Act of Parliament concerning the precedence of his Grand Officers, and of his Nobility; and thereupon their manner of sitting in Parliament at this day is thus: 31 H. 8. c. 10.

The Princes Place.

His Highness seate on the left hand of the chair of State; that on the Right hand was Antiently for the King of Scots when he used to come to our Parliament.

The Kings Childrens Place:

It is Enacted 31 H: 8. that none but the Kings children do presume to sit at any side of the Cloth of State.

The Grand Officers are thus placed by the Statute aforesaid.

The Lord Chancellor, or Lord Keeper,

The Lord Treasurer,

The Lord President of the Kings Council,

The Lord Privy Seal,

Being of Degree of Barons in Parliament on the left side of the Parliament chamber above the Arch Bishop of the Higher part of the Form of the same side; above the Dukes, except only such as shall happen to be the Kings Son, the Kings Brother, the Kings Uncle, the Kings Nephew, or Sisters Son:

The great Chamberlain,

The Constable,

The Marshal,

The Lord Admiral,

The Lord Steward,

The Kings Chamberlain,

Above all others of the same Estates and Degrees.
The

The Kings chief *Secretary* being of the Degree of a *Baron* above all *Barons*, not having any of the Offices above-mentioned.

It is also Enacted by the same Statute, that if either the Lord Chancellor, Lord Treasurer, President of the Kings Council, the Lord Privy Seal, or chief *Secretary* shall be under the degree of a *Baron of Parliament*, then such of them as shall be under the said Degree, shall be placed at the upper part of the Sack; the one of them above the other as above-said.

All other *Dukes* not before-mentioned, *Marquesses*, *Earls*, *Viscounts*, and *Barons* not having any of the Offices aforesaid, shall all sit, and be placed after their Anciency, as hath been accustomed: And with this clause concurreth the Civil Law; *Quis in uno, eodemque genere dignitatis prior esse debuerat, nisi qui prior meruit dignitatem?* Cod: 12. 3. 1. vide Cod: 12. 4th. 2.

It is Enacted also by the aforesaid Statute, that in all Tryals of Treasons by the Peers of the Realm, if any of the *Peers* that shall be called hereafter to be Tryers of such Treasons shall happen to have any of the Offices aforesaid, that then they having such Offices, shall sit and be placed according to their Offices above all the other *Peers* that shall be called to such Tryals in manner and form as is above-mentioned and rehearsed.

And it's also Enacted by Authority aforesaid, as well in all *Parliaments*, as in the *Star-chamber*, and in all other Assemblies and conferences of Counsel, the Lord Chancellor,

the Lord Treasurer, the Lord President, the Lord Privy Seal, the Great Chamberlain, the Constable, the Marshal, the Lord Admiral, the Grand Master, or Lord Steward, the Kings Chamberlain, and the Kings chief Secretary shall sit and be placed in such order and fashion as is above rehearsed, and not in any other Place by Authority of this present Act.

If any Question be moved in Parliament for precedency of any Lord of Parliament, it is to be decided by the Lords of Parliament, in the House of the Lords, as all priviledges, and other matter concerning the Lords House of Parliament, are: Co: 4. Inst: f: 363.

The determination of the Places and Presidences doth belong (as is said before) to the Court of the Constable; and Marshal, unless any Question ariseth upon the said Act of 32 H: 8. for that being part of the Law of the Realm (as all other Statutes be) is to be decided by the Judges of the common Law, Co: 4. Inst: 363.

I shall conclude this Matter of Learning with the words of Theodosius his Code.

Siquis indobitum sibi locum usurpaverit, nulla se ignorantia defendat: sitq; plane sacrilegii reus; qui divina praecepta neglexerit, Cod: 12.8.1.

Gothofredus on this place thus: *Qui locum indobitum sibi usurpaverit, Sacrilegii tenetur, nec ignorantiam prae texere potest.*

3. And Lastly, Of the Precedency of Kings, and Supream Princes.

Touching the Precedence of the Princes of Europe, I shall present what I have read in Cambden, Heylin, Segar, and Sir Winston Churchill.

1 Cambden.

Whereas it was fore-seen that a question would arise at the Treaty of Bologne about Priority of Place in Sitting and going, there were certain men selected to inquire of this matter: These men observed, that in the Book of Ceremonies of the Court of Rome, which (as the Canons have it) doth as Lady Mother, and Mistress give a Rule to others; amongst Kings the first place is due to the King of France, the second to the King of England, and the third to the King of Castile; that the English have holden that Place quietly in the general Counsels of Pisa, Constance, Seven, and Basil; Besides, that the Kingdom of Castile, the Titles whereof the Spaniard preferreth before his other Titles, is late Kingdom in respect of the Kingdom of England, for it had Earls, and not Kings before the year of Salvation 1017. and those not Anointed; that amongst the Kings which they termed *super Illustrions*, the King of England was accounted the Third, and the Spaniard

niard the fourth. Also that the Bishop of Rome *Julius* the 3^d. gave sentence for H: 7. of England against *Ferdinand* of Castile, That the Queen of England was before the Spaniard in time both of Birth, and Coronation; (for this Argument did the Spaniards use in the Council of *Basil* against H: 6. of England.) In brief, that the skilful in the Law have pronounced with one voice *Precedence*, whose Original is beyond the memory of man, is by Law and Right to be holden as a thing established: *Cambdens Eliz. lib: 4. anno 1600.*

2. Heylin.

When all Christendome in the Council of *Constance* was divided into Nations, *Anglicana Natio* was one of the principal, and not subalternate; and had its voice of equal balance with the Nations of *France*, or *Italy* in all Affairs concerning the Doctrine, Discipline, and peace of the Church, which were there Debated; and for the place due to the Kings of *England* in those general Councils, and the Rank they held among other Christian Princes, I find, says he, that the Emperor of *Germany* was accounted *Major Filius Ecclesie*; the King of *France* *miior Filius*, and the King of *England* *Filius tertius*, & *Adoptivus*. The King of *France* in General Councils had place next the Emperor, on his right hand, the King of *England* on his left hand, and the King of *Scotland* next before *Castile*. *Heylins Cosmography lib: 3. f, 253, &, 254.*

3. Seger

3. *Segar.*

By divers Writers (says *Segar*) as it is affirmed, that the King of *France* may justly claim the chief place.

1. For that it pleased God to send from Heaven unto *Clodoveus* the first Christian King of that Nation Three Lillies (as a Divine favour) to be from thenceforth born in the Arms of that Kingdom, before which time the Kings Armes were Three Toades.

2. They alledg rhat *France* is the most antient Kingdom of *Europe*, and that *Suardus* was King of that Nation in the Reigu of *Alexander* the Great:

3. Becaafe the King of *France* is Anointed, which indeed seemeth a mark of much preheminance.

4. For that the *French* King beareth the Title of *Most Christian*.

Lastly, Because it hath been in sundry Papal Consistories Decreed, that the Ambassadors of *France* should precede the Ambassadors of *Spaine*.

Others hold that Precedency appertaineth to the King of *Spaine*.

1. For that he is Intituled *The most Catholique King*.

2. Because he is King of many Kingdoms, and consequently of most Honor, which reason *Salust* seemeth to confirm saying, *Maxima Gloria, in maximo imperio.* But

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But we say, the chief Place of Honor and Precedency appertaineth to the *King of England*.

1. In respect of Antienty, for albeit *Alexander* the first *King* of the *Grecians*, and of *Persia*, called himself *King* of the *World*; even at that time *Brutus* was *King* of *England*, and (as some have seid) *Suardus* was then *King* of *France*.

But *Gaguinus* in his *Chronicle* of *France* maketh no mention thereof, nor Recordeth his Name among the number of *French Kings*.

2. The *King* of *England* is Anointed, and so is no other *King* but the *French King*, and the *King* of *Sicil*, and the *King* of *Jerusalem*.

3. The *King* of *England* is Crowned, which Honor the *King* of *Spain*, *Portugal*, *Aragon*, *Navarra*, and many other *Princes* have not.

4. The *King* of *England* is a *Prince* most absolute, as from whom is no Appellation, either in Jurisdiction Ecclesiastical or Civil.

And albeit *Enqueranus Monstellet* Writeth, that in the Year 1420. at the Interview of the *Kings* of *England* and *France*, making their entry into the City of *Paris*, the *French King* did ride on the right hand, and kissed the Reliques of *Saints* first, yet is that no proof of his Right in precedence; for *Quilibet Rex seu Princeps in suo Regno in Culmine sedere debet*; so saith *Corsetus de potestate Regia*.

And

And admit that in time more antient, the *Kings of France* had precedence before *England*, yet since the Conquest, and famous Victories of *H. 5.* and the Coronation of *H. 6.* in *Paris*, the *Kings of England* may justly take place; neither is the Title of *Most Christian* any proof of Antienty, being only an Honor given for certain Services done by King *Pepin*, and *Charlemain* to the Church of *Rome*.

As for the Allegation of *Spaine*, affirming that the *Catholick King* is owner of many Kingdoms, and therefore of most Honor; that reason is of no consequence, for so is also the King of *England*, whose only Kingdom of *England* is by nature inexpugnable, and so plentifully peopled as sufficeth not only to defend it self against all other Nations, but also to Invade and Conquer, as both *Spaine* and *France* hath made experience.

But the last and most effectual Reason in favour of *England* is, that the King and people thereof received the Gospel, and Faith Christian before *France*, or *Spaine*; Also the Bishops with the Ambassadors *English* had precedence in the great general Councils of Christendom, as particularly appeareth out of the Council of *Constance*, where the Bishops of *England* were present, and Honored accordingly.

4 Churchill.

The most Loyal, Learned, and Ingenious Gentleman in his piece (lately published, and Intituled *Divi Britannici*,) clearly proves for the

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the precedence these two particulars; 1 That our Kings are of the *Quatuor Uncti*, which were before all other Kings. 2 That the Kings of this Isle were the first Christian Kings in the World; and if so, why then say I, that our Kings ought to be preferred before other Supream Princes in Europe.

Hic mos (says Grotius) Antiquitus in Christianorum quoq; Regum, ac Populorum Societate obtinuit, ut qui primi Christianismum professi sunt, in conciliis ad rem Christianam pertinentibus præcedant Cæteros; Lib: 2. c: 5: xx: 21. de Jure Belli, ac Pacis.

FINIS.

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F I N I S.